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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 March 1998, at 10 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. HYNES (Vice-Chairman)	(Canada)
later:	Mr. GALLEGOS CHIRIBOGA (Vice-Chairman)	(Ecuador)

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The meeting was called to order at 10 a.m.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), introducing the document entitled "Report of the United Nations High Commissioner for Human Rights" and her interim report on the five-year review of the implementation of the Vienna Declaration and Programme of Action (E/CN.4/1998/104 and Corr.1), said she believed that the Commission could make a difference to the international community's approach to the promotion and protection of human rights. The six months since she had assumed office had been a period for gaining experience, for action and for reflection on the principles underlying such promotion and protection.

2. The Universal Declaration of Human Rights, a living document that was still as relevant as it had been 50 years previously, provided the fundamental inspiration for the many developments that had occurred since its adoption. Some of them might not have been anticipated at the time, but all could trace their origins to it. An array of mechanisms had been established through which the United Nations and the international community monitored the observance of human rights commitments undertaken by States, and there was a need to value, provide resources for and improve the working of those mechanisms. The fiftieth anniversary of the adoption of the Declaration was not an occasion for rejoicing, self-satisfaction or complacency, for no one could pretend that the results achieved had led to any significant reduction in the degree, nature or even number of human rights violations.

3. Twice in the current decade, acts of genocide had been perpetrated against hundreds of thousands of people. Rape had been systematically used as a weapon of war in complete defiance of international humanitarian law and international human rights instruments. Torture, arbitrary executions and disappearances were commonplace. Hundreds of millions of people lived in extreme poverty, suffered from malnutrition and disease, and had even given up hope. Millions of children died of diseases that were curable elsewhere or from a lack of drinking water. Every day there were new cases of discrimination based on sex, race, religion or ethnicity, on belief or even sexual preference. Countries that prided themselves on their traditional openness closed their doors in the face of migrants, refugees and asylum seekers. All that undoubtedly constituted a shameful failure to implement human rights standards and clear evidence that the outcome had been inversely proportional to the efforts deployed over the past 50 years.

4. Nevertheless, the message of human rights was one of hope, a message that changes could be made and that individuals and the United Nations could have an impact. She had learned in the past six months that the gap in perceptions of what was meant by human rights needed to be narrowed if the commitment to promote and protect them was to become a reality, and her mandate entrusted her with a particular responsibility to bridge that gap and to adopt and foster a rights-based approach across the whole spectrum of civil, cultural, economic, political and social rights, to promote and to protect the realization of the right to development and to include women's

rights as human rights. Her approach had to embrace all those who were vulnerable, including indigenous peoples, people with disabilities, migrants, refugees and internally displaced persons.

5. Under the leadership of the Secretary-General, the United Nations as a whole had begun to put human rights in the mainstream of all its work, and she hoped that that approach would find a reflection in the Commission's activities and that it would address each situation objectively and on its merits. She hoped that all those referred to during the work of the Commission would accept comments in a constructive way, and that States commenting on others accepted that no State was without its human rights problems and, with that in mind, would avoid unnecessarily antagonistic statements and resolutions.

6. The international community had tended to react to human rights violations after the event, and the Commission could and must take effective steps to prevent and forestall situations where human rights violations were threatened. Current events in Kosovo were a worrying reminder of that necessity.

7. She was deeply conscious of the scale of violence perpetrated against women and children, and would make that particular problem a priority. In particular, she proposed to address the worsening problem of trafficking in women and girls, which had been brought home to her in Cambodia and Thailand and which was an acute problem in other regions, such as Central and Eastern Europe.

8. There had to be an integrated approach, and those working in the area of human rights in the United Nations system must work more closely with their colleagues in the political affairs and peacekeeping areas because human rights violations were among the causes of future conflicts. Closer cooperation had been achieved with agencies working in the areas of economic development, population, health, the protection of children and the rights of women, refugees and displaced persons. Such cooperation should also embrace the Bretton Woods institutions and the technical agencies whose activities had exercised a decisive influence over the implementation of human rights.

9. An agreement had recently been signed between her Office and the United Nations Development Programme (UNDP) to strengthen and extend cooperation, and she attached the highest priority to technical cooperation and advisory services, whose effectiveness would be enhanced by that agreement. The right to development was generic and demanded the realization of all human rights - civil and economic as well as political and social. That approach regarded human rights as a means of entrusting responsibility to individuals and communities.

10. Another priority was to expand her Office's work on national capacity-building to protect and promote human rights: there had been a remarkable growth in the number of human rights commissions and ombudspersons in all regions, and there was a recognition that the existence of national human rights structures and mechanisms made a real difference in addressing human rights problems. The duty to protect and promote human rights and fundamental freedoms rested first and foremost with Governments, and she took

the occasion of the fiftieth anniversary of the Universal Declaration to call upon Governments to increase their efforts to ensure the full realization of all human rights.

11. There was a need to rekindle the flame that had been the symbol of Vienna and for much more to be done by the international community to implement the commitments undertaken at the World Conference on Human Rights. That Conference had urged the universal ratification of human rights treaties and, although there had been notable progress, there were still two Member States which had failed to ratify the Convention on the Rights of the Child three years after the deadline set at Vienna. It seemed unlikely that the Convention on the Elimination of All Forms of Discrimination against Women would achieve universal ratification by the year 2000, and the situation was even less satisfactory as regards the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. There was a need to reaffirm the commitments undertaken at Vienna and to consider the possibility of setting a realistic goal for the universal ratification of those six core instruments. That being said, she wished to support the global campaign on the migrants rights convention and all other efforts being made to encourage the ratification of international human rights instruments.

12. The Vienna Conference had also underlined the importance of preserving and strengthening the system of special procedures of the Commission, and it was a matter of grave concern that a number of States, including members of the Commission, continued to refuse their full cooperation to special rapporteurs. She drew particular attention to the recent refusal by a court in a Member State to recognize that the Special Rapporteur on the independence of judges and lawyers enjoyed the protection provided by the Convention on Privileges and Immunities of the United Nations; she urged the Government concerned to respect its obligations under the Convention.

13. The provisions of the Vienna Declaration concerning national action plans had received relatively little implementation, and she urged all States to make serious efforts to draw up plans such as the regional arrangement for technical cooperation which had been adopted by the recent Asia-Pacific region workshop held at Tehran.

14. The Universal Declaration identified teaching and education as key means for the promotion and protection of human rights: human rights education was a vaccine against intolerance, animosity and conflicts, and empowered individuals to stand up for their rights and those of others. It was a high priority in the work of her Office. Non-governmental organizations (NGOs) also had an important role to play in ensuring that people were educated concerning and supported in exercising their human rights. She welcomed the successful outcome of the deliberations of the Working Group on human rights defenders, and hoped that the Commission could endorse the draft declaration by consensus and transmit it to the General Assembly for adoption at its next session. It was also to be hoped that Human Rights Year would be marked by the establishment of the permanent international criminal court, which would be the last major international institution of the millennium.

15. The staff allocation and financial resources available to her Office continued to be insufficient for the purpose of fulfilling the mandates entrusted to it and did not reflect the priority which the Commission had given to its work. To fulfil the commitments made by Member States in the Vienna Declaration and Programme of Action, it was essential that the United Nations human rights activities should be placed on a proper financial footing in terms both of the regular budget and of voluntary contributions.

16. The Secretary-General had issued a strong moral call for action to end human rights violations and to protect democracy and human rights as being essential to development. The United Nations was challenged to respond, but so were Governments, NGOs and individuals. The Governments had to end violations against women, children, minorities and migrants and racial discrimination; to ratify international human rights treaties; to adopt national plans of human rights action and to include human rights in national economic priority-setting; to ensure human rights education for all; to establish national human rights institutions; and to make progress towards eradicating poverty. NGOs and individuals had to reinforce education and information on human rights; to develop wide partnerships and a broad approach for action on human rights; to alert Governments and United Nations bodies to dangers of violations; and to make human rights and respect for human dignity a part of daily life. Progress in some of those areas might be easier to measure than in others, but that should not prevent the effort being made to mark achievements and to signal failures.

17. The fiftieth anniversary of the Declaration and the fifth anniversary of the Vienna Conference provided an opportunity for all to recommit themselves to action and to specific practical measures. The Commission had a particular task and responsibility in that endeavour, and she wished it every success in its efforts to make a difference and to ensure the promotion and protection of all human rights for all.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

18. Mrs. OGATA (United Nations High Commissioner for Refugees) said that the fiftieth anniversary of the Universal Declaration of Human Rights was of particular importance for her Office because it stated that everyone had the right to seek and enjoy in other countries asylum from persecution. The value of the Declaration as a fundamental principle of human protection was stil as valid and imperative as in 1948. Human rights remained an unfulfilled promise to millions around the world, and the challenge for the new millennium must be to translate the Declaration into a living instrument of protection and find ways to ensure that the rights it enshrined had a direct impact on the lives of those who needed them most.

19. The root causes of refugee displacement were inextricably linked to conflict, persecution and the denial of human rights. The very existence of refugees and other forcibly displaced people was a barometer of a society's incapacity to resolve its problems by peaceful rather than violent means. Factors such as acute poverty and the effects of cumulative discrimination could in turn lead to civil and political instability which lay at the root of forced displacement.

20. The physical safety and human dignity of those forced to flee across their national borders was preserved through the principle of asylum but, over the past 12 months, there had regrettably been further erosion of that principle in many parts of the world. Refugees had been prevented from seeking effective protection and had been returned to countries where their lives were in danger. She was much concerned that those fundamental human rights principles were being undermined in some asylum countries, and there had also been unprecedented attacks on humanitarian and human rights workers themselves.

21. The events in the former Zaire in the first half of 1997 had been extremely distressing. Never had so many people been killed or deported despite the efforts of the humanitarian community. What had been most distressing had been the inability to offer any kind of choice to refugees threatened with certain death. The only option had been repatriation, or evacuation, under circumstances that were far from ideal.

22. To overcome that alarming trend there was a need to engage Governments in serious debate about humanitarian principles and standards for the treatment of refugees and other persons of concern to her Office. The principle of asylum remained of fundamental importance, and any failure lay in the implementation of the right, not in the principle itself. If respected, it served the dual purpose of providing a predictable and structured legal framework for the international protection of those whose safety was most at risk, while defining those who did not deserve or need that protection. At the same time, it gave different actors on the international, regional and national stage the breathing space to explore solutions which resolved not only the plight of those who had been forcibly displaced but also the underlying causes themselves.

23. Human rights standards were also of great importance in the search for and implementation of lasting solutions for refugees and other forcibly displaced people. In the return of refugees to their own countries, the standards helped to define the conditions for safe and dignified repatriation and reintegration. They also gave guidance in the search for ways to rebuild the human rights protection capacity of those countries, and provided a principled framework within which the processes of reconciliation could be nurtured.

24. In her years as High Commissioner, she had seen that the only legacy of violence was further violence, and that only a careful measure of justice, forgiveness and reconciliation could break what inevitably became an inexorable cycle of violence and displacement. There was an impressive array of international, regional and national human rights standards, structures and arrangements in existence. They must continue to evolve to ensure that gaps and weaknesses were identified. For example, the Guiding Principles relating to Internally Displaced Persons were of considerable importance to the work of UNHCR and the recently appointed Special Representative on the impact of armed conflict on children would be an important advocate for the rights of that vulnerable group.

25. The work of the Commission at its current session was also important to ensure that the monitoring role of the United Nations treaty bodies was more

effectively implemented, thereby improving the accountability of States to their treaty commitments and lending credibility to the human rights system as a whole. The process of accountability should also extend to individual perpetrators of serious human rights violations and in that context she welcomed the initiative to establish a permanent international criminal court. Accountability through justice was imperative within any comprehensive approach towards peace and reconciliation.

26. It was essential to ensure that the threads of human rights protection, refugee protection and international humanitarian law effectively reinforced each other in conflict-torn States, and that they provided the fabric within which humanitarian and other action took place.

27. However, if the fiftieth anniversary was to have any resonance over the next half century, the international community had to find innovative and practical ways to help States take responsibility for their own populations. Human rights were owned by people, not by States or Governments.

28. The greatest contribution that UNHCR could make in post-conflict reconstruction and normalization, in which the return and reintegration of forcibly displaced people was often an integral part, would be at the grass-roots level of the communities affected. UNHCR's experience in the Great Lakes region of Africa and in the former Yugoslavia confirmed the importance of that approach. It was through adequately resourced operational engagement within the communities themselves that humanitarian efforts should be directed.

29. The international community must support local efforts to rebuild confidence and respect for the process of law. Through appropriate legal measures, issues such as compensation and restitution of property, rights to education, housing and employment could be resolved fairly and impartially to the benefit of returning refugees and resident populations alike. A national legal system that was fair, impartial and immune from political pressure would attract wider community support, assist in the reintegration and rehabilitation of refugees and contribute towards the prevention of future forced displacement. Moreover, a community-based approach could often circumvent or mitigate the worst effects of political obstruction at the national level.

30. Despite the explicit terms of the Dayton Peace Agreement, her Office's efforts to repatriate refugees and displaced people to areas in Bosnia and Herzegovina where they would live as ethnic minorities had been thwarted by political blockages, legal barriers and administrative practices. In an effort to break that impasse, UNHCR had launched the "Open Cities" initiative with the aim of re-establishing multi-ethnic, open and tolerant communities. In practical terms, the criteria required the adoption of fair laws relating to property and occupancy, amnesties and opportunities for returnees to be employed, housed and educated. In recognition of their efforts, the designated Open Cities, of which there were 10 to date, received preferential and expeditious international assistance.

31. A community-based approach should support projects that "added value" to efforts that were already under way. In Rwanda and Bosnia, UNHCR had promoted special initiatives for women returnees, which included income generation and economic empowerment programmes. In conflict-torn societies, women had a key role to fulfil if community divisions were to be overcome.

32. She was thus particularly upset that women were denied their basic rights in so many parts of the world: in Afghanistan, for example, the Taliban's refusal to allow women to work and to be educated was not only a violation of their basic human rights but also seriously hampered humanitarian efforts to return the more than 2 million refugees currently in the Islamic Republic of Iran and Pakistan.

33. If grass-roots initiatives gained popular and widespread support, they would positively influence developments at higher national levels and would provide the building blocks of sustainable peace among the people of a society based upon the rule of law.

34. Such efforts required the collaboration and support of a broad range of actors sharing a common vision but recognizing the distinctness and separateness of their various responsibilities and strengths. UNHCR had already had constructive and practical discussions with the High Commissioner for Human Rights and her Office and would continue to explore ways in which their distinct but linked mandates could best complement each other, particularly at the operational level. UNHCR also followed with interest the human rights treaty bodies and those working groups and special rapporteurs which were studying issues relevant to its mandate.

35. UNHCR was also forging closer ties with the non-governmental community at the international, regional and local levels; it set great store by community-based organizations because a healthy local NGO community was a good palliative against the root causes of refugee displacement. With States, UNHCR was seeking a broad reaffirmation of their moral and legal commitment to refugee protection, while at the same time acknowleding that refugee populations could create economic and social burdens and legitimate security concerns for some of them.

36. If humanitarian action was to be effective and human rights protected, the safety of humanitarian and human rights workers had to be guaranteed. All too often they were the victims of intimidation, abuse and direct attack, and no agency was immune. A UNHCR staff member, Mr. Vincent Cochetel, had been held for 50 days after being abducted in the northern Caucasus, and she urged his captors to release him safely and without delay.

37. Unless the protagonists to a conflict renounced violence and embraced a common vision of peace and reconciliation, the effective implementation of human rights would never be possible. The challenge was to find creative ways to support those communities where confidence and trust had been shattered by defining an agenda of common interests and ensuring that they were implemented within an agreed and principled legal framework where human rights standards defined the parameters of options and solutions. She appealed to the

representatives of the Member States to provide the political, material and security support that must underpin all efforts to ensure that the fundamental rights enshrined in the Universal Declaration were of true value and relevance to their intended beneficiaries.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

38. Ms. KHAN (Chairperson, Committee on the Elimination of All Forms of Discrimination against Women) said that, on the fiftieth anniversary of the Universal Declaration of Human Rights, which was also the seventeenth anniversary of the entry into force of the Convention on the Elimination of All Forms of Discrimination against Women, it was gratifying to note that 161 States had ratified or acceded to the Convention, making it second only to the Convention on the Rights of the Child as the most widely accepted human rights treaty. The goal of universal ratification by the year 2000 set in both the 1993 Vienna Programme of Action and the 1995 Beijing Platform for Action thus remained readily achievable.

39. While the Convention continued to be subject to a large number of reservations, some of them quite far-reaching, progress had also been achieved in that regard. Pursuant to General Assembly resolution 51/68, the Committee regularly invited States to review any reservations they might have entered to the Convention with a view to withdrawing or, at least, limiting them. The statement on reservations, to be finalized at the Committee's forthcoming nineteenth session, would constitute the Committee's contribution to the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

40. The Convention on the Elimination of All Forms of Discrimination against Women was the only human rights treaty which expressly limited the meeting time of its monitoring body, article 20, paragraph 1, indicating that the Committee should normally meet for a period of not more than two weeks annually. In view of the increased workload resulting from the growing number of States parties, a second annual session of the Committee had been approved by General Assembly resolution 51/68 as an interim measure pending the acceptance by the required two-thirds majority of States parties of an amendment to the article in question. The seventeenth session of the Committee, held in July 1997, had been the first occasion on which it had met for a second annual session. With a regular pattern of two annual sessions, the Committee would be able to address the backlog of reports awaiting review, enhance its working methods and develop other aspects of its work, including general recommendations.

41. In the course of its last three sessions, the Committee had reviewed the reports of 25 States parties and had adopted a general recommendation on the subject of women in public life. It had also substantially concluded its work on a general recommendation dealing with women and health and had deepened its relationship with the specialized agencies, funds and programmes of the

United Nations system, as well as with NGOs. Specialized agencies were invited to present information to the pre-session working group on periodic reports, while international and national NGOs were also invited to brief the pre-session working group on the States parties whose reports were being considered. Informal contacts between Committee members and NGOs had been strengthened.

42. The Committee had also strengthened its relationship with the Office of the High Commissioner for Human Rights and with human rights mechanisms, including treaty bodies and rapporteurs. In that connection, she referred to a round table of human rights treaty bodies on human rights approaches to women's health, with a focus on reproductive and sexual health and rights, that had been held in December 1996. The Meeting of Chairpersons of Human Rights Treaty Bodies was also an important vehicle in fostering cooperation between the Committee, other human rights mechanisms and the Office of the High Commissioner for Human Rights.

43. The High Commissioner had personally addressed the Committee at its eighteenth session in January 1998. It was gratifying to note that the activities of her Office included a campaign for the universal ratification of the Convention on the Elimination of All Forms of Discrimination against Women, the removal of substantive reservations, and continued support of the work towards the elaboration of an optional protocol to the Convention which would allow the Committee to consider individual complaints. Progress in the elaboration of that protocol had been made at the forty-second session of the Commission on the Status of Women. The Committee was also encouraged by the High Commissioner's clear commitment to the mainstreaming of the human rights of women and by the adoption of a joint work plan by the Office of the High Commissioner and the Division for the Advancement of Women.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MOZAMBIQUE

44. Ms. RODRIGUES (Mozambique) said that, notwithstanding the great advances achieved in the field of human rights, constant and grave violations were still occurring throughout the world. The issue of human rights continued to be a special concern for her Government, which was currently engaged in the process of consolidating the rule of law. Unfortunately, the phenomenon of social exclusion was still apparent in her country, returnees and internally displaced persons, the handicapped and orphans being among the most excluded sections of society. Within that context, her Government was adopting and implementing policies designed to promote employment, social reintegration, the establishment of small and medium-sized enterprises and the extension of health care and education networks throughout the country. A reform of education curricula was under way with a view to introducing the teaching of human rights at all school levels, and social welfare policies for workers were being implemented. The process of national reconciliation was a reality in Mozambique where, despite the negative effects of the prolonged armed conflict which had ravaged the country, moral values and the social fabric were gradually being restored.

45. Her Government was particularly concerned about the problem of landmines, without the complete elimination of which the most basic human right of the population could not be ensured. It was also concerned about

the fate of the children, women and elderly persons traumatized by war, whose future depended entirely on the level of support with which they could be provided. For that reason, the implementation of the recommendations contained in the study on the impact of armed conflict on children (A/51/306 and Add.1) remained a major challenge to the international community.

46. The multi-party democracy established in Mozambique was reflected in the existence of many fundamental freedoms, including those of association, religion and the press. The first municipal elections, scheduled for the current year, would deepen still further the free exercise of civil and political rights by Mozambican citizens and mark another important step along the country's chosen political path.

47. Nevertheless, excesses and abuses of various kinds were not yet a thing of the past and her Government had launched a vast programme of police reform with an emphasis on civil education, respect for civil rights, the scope and meaning of the rule of law, human rights, and professional police conduct. A far-reaching reform of prison administration and prison conditions was also being undertaken and the judicial system as a whole was undergoing changes which included institutional improvements, capacity-building and the establishment of new courts in the country's more remote areas. Penal legislation was being reviewed and brought into line with the various human rights instruments.

48. Thanking the international community for its support and expressing the hope that it would continue to assist her country in its endeavours, she emphasized that her Government associated itself fully with the objectives and purposes of the Declaration on the Right to Development adopted by General Assembly resolution 41/128.

49. In conclusion, she said that, on the basis of the Commission's recommendations, her Government had formulated an extensive programme for the commemoration of the fiftieth anniversary of the Universal Declaration which, it was hoped, would stimulate nationwide debate on and direct participation by civil society in the issue of human rights in Mozambique.

STATEMENT BY THE ATTORNEY-GENERAL OF MEXICO

50. Mr. MADRAZO CUELLAR (Mexico) said that most of the human rights standards enshrined in the international treaties to which Mexico was a party had been incorporated into the Constitution and formed part of the country's domestic legal order. His Government was determined to continue to comply fully with its international commitments in the human rights field and, to that end, had established a governmental inter-secretarial commission entrusted with the preparation of specific recommendations. While the participation of foreigners in Mexico's political affairs was forbidden by the Constitution, non-governmental human rights organizations acting as observers were accepted.

51. His Government welcomed and enthusiastically supported the work of the High Commissioner for Human Rights and looked forward to the establishment of a permanent international criminal court. While Mexico possessed an extensive

non-jurisdictional system of protection, the battle for human rights in the country was not yet won, and the Government was determined to reform the laws, institutions and human resources so as to put an end to impunity and ensure absolute respect for human rights.

52. After referring in detail to the events that had occurred at Acteal in the State of Chiapas on 22 December 1997 and had resulted in 45 persons being killed and 25 wounded and to the investigations that had followed, he said that the 124 individuals who had been prosecuted in connection with the massacre included a former mayor and 11 former police officers. The Governor of Chiapas at the time of the events, who had resigned in consequence thereof, had appeared before the Federal Public Prosecutors, as had other individuals who had held important positions within the government of the State of Chiapas.

53. Pre-trial investigations conducted to date by the Office of the Attorney-General for the State of Chiapas indicated that the public security corps had not only tolerated but had actually abetted illegal arms trafficking. The degree of involvement of other police agents and former civil servants of the State of Chiapas was still being investigated. Its reaction to the Acteal events reflected the determination of his Government to fight impunity and to restore the rule of law in the State of Chiapas.

54. Furthermore, a bill to amend and expand seven articles of the Constitution of Mexico had been submitted by the President to the Senate. The bill gave special attention to the concept of indigenous autonomy and to the forms of social organization and ownership to which indigenous peoples would be entitled. While respecting the San Andrés Larráinzar Agreements signed by the Federal Government and the EZLN, it clearly ruled out ambiguous interpretations, consolidated the unity of Mexico as one single nation, and was consistent with the constitutional framework as a whole. The bill constituted clear proof of his Government's efforts to attain a just and dignified peace in Chiapas while at the same time setting the constitutional framework for the full and equal development of all the indigenous peoples of Mexico on the basis of recognition and respect for their cultural diversity.

STATEMENT BY THE MINISTER OF JUSTICE OF GABON

55. Mr. CHAMBRIER (Gabon) said that the people of his country had always viewed human rights not as an optional extra but as the foundation of Gabon's existence. It had attained its international sovereignty as a State subject to the rule of law, in which there was full respect for human rights. On the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, the principles it enshrined and the Vienna Declaration and Programme of Action should continue to inspire the international community.

56. The international community could not be indifferent to intolerance and racism. The preparations for the forthcoming world conference on racism should therefore set definite and specific goals. Gabon's commitment to human rights was demonstrated by its accession to the African Charter on Human and Peoples' Rights. Its President was internationally recognized as a fervent defender of human rights who had contributed significantly to peacemaking efforts in many areas of tension, particularly in Central Africa. Gabon had supplied 300 soldiers to participate in the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB).

57. At the national level, great progress had been made in achieving social well-being and democracy. Once the multi-party route had been chosen in 1990, respect for human rights had enabled full use to be made of the country's intelligence and talents. New structures had been set up to ensure a coherent policy on human rights. A Human Rights Department had been established, attached to his own Ministry - the Ministry of Justice. A National Human Rights Commission was being established and the preparation of reports for submission to the treaty bodies had begun again. On 10 December 1997, Gabon had held a day of celebration to mark the beginning of the fiftieth anniversary year of the Universal Declaration. It was hoped that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of which Gabon was a signatory, would be ratified at the forthcoming parliamentary session.

58. Although the African continent had very largely translated the various political and legal developments on human rights into action, there were unfortunately some violations that still remained. The help of the United Nations was thus needed to consolidate the instruments for human rights monitoring and protection. To that end the African Commission on Human and Peoples' Rights would shortly be strengthened by an African court of human and peoples' rights, the outlines of which had been put forward at Addis Ababa in December 1997, when African jurists had prepared a protocol of agreement for submission to the African ministers of justice for adoption by the Heads of State and Government at the next summit meeting of the Organization of African Unity (OAU).

59. A preparatory meeting on the establishment of a permanent international criminal court had been held at Dakar in February 1998 under the auspices of the United Nations, the OAU, the European Union and several NGOs. Such a court would be an important step towards the prevention and punishment of war crimes, crimes against humanity and genocide. He noted that the Preparatory Committee for the Diplomatic Conference on the subject was currently holding its last meeting in New York.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF BAHRAIN

60. Mr. AL-KHALIFA (Bahrain) said that his country held an absolute belief in the sanctity of human rights as ordered by God, who had also ordered equality, toleration and solidarity among human beings, regardless of their sex, race or religion. The Commission - whose efforts his Government appreciated - had the heavy duty of promoting and protecting human rights. Human rights did not belong to a specific country or society but were of an international nature, especially in the modern world, the parts of which had been brought very close together by the communications revolution.

61. The most basic priority of human rights was the provision of dignified freedom for human beings by releasing them from poverty, hunger and disease which were still afflicting some of the peoples of the developing countries. The sufferings of the Palestinian people under occupation constituted a grave violation of human rights and also of the Fourth Geneva Convention of 1949, which was deserving of condemnation by the international community, as were the events currently taking place in Kosovo.

62. Bahrain, for its part, was working to maintain international peace and security, not least through its role in the Security Council. The principles

of respect for human rights had been a cornerstone of its policies to protect and maintain the rights and freedoms of all its citizens without distinction as to race, sex, religion or language, in order to ensure the sustainable development of its society.

63. As a result of its recognition that human rights were universal, the Constitution of 1971 and the laws of the State of Bahrain reflected the principles contained in the Universal Declaration of Human Rights. His Government also attached great importance to respecting the religious, cultural and traditional particularities of States and societies so as to ensure that human rights were not used as a pretext for political actions contradictory to a society's values or as a basis for interference in a State's internal affairs.

64. Since entering the United Nations in 1971, Bahrain had become a party to a number of basic human rights conventions including, most recently, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and was giving serious consideration to acceding to other international treaties in the field of human rights, in accordance with its religious beliefs and social and cultural framework.

65. Being eager to establish close cooperation with all international agencies in the field of development and humanitarian affairs, Bahrain had recently signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) reflecting the relationship of consultation and cooperation between the two parties and his Government's full support of and respect for that body.

66. Bahrain believed wholeheartedly that the cause of human rights could be advanced only through international understanding and cooperation and steadfast commitment to the principles enshrined in the Universal Declaration of Human Rights. Consequently, it would always cooperate with the international community and the organizations and agencies of the United Nations system.

67. Mr. Hynes (Canada), Vice-Chairman, took the Chair.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1998/4 and Corr.1, 7, 8, 17-20, 112, 116, 124, 125, 128, 133, 134, 136, 137 and 141; E/CN.4/1998/NGO/61)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1998/30, 31 and 125; E/CN.4/1998/NGO/30)

68. Mr. BUILO (United Towns Agency for North South Cooperation) said that, sheltering behind the sacrosanct principle of non-interference in the internal affairs of States, some Governments deliberately violated the Universal Declaration. In that connection, he drew attention to the report of the Secretary-General to the Security Council on the United Nations Angola Verification Mission II which said that, because of guerrilla operations in the Cabinda enclave of Angola, large numbers of government troops had been

posted in the area, thus excluding it from the peace process and causing considerable tension. That was a matter of great concern, since the people of Cabinda were being denied their right to self-determination.

69. Mr. OZDEN (Centre Europe - Tiers Monde) said that the appointment of Mr. James Baker as the Secretary-General's Special Envoy in March 1997 and the opening of negotiations in September 1997 had given all Saharans everywhere fresh hope concerning the success of the future referendum. The identification process had recommenced, although it had been impeded by the insistence of the Moroccan authorities on submitting people from contested tribes.

70. Morocco had a curious way of preparing for the referendum, however: it was conducting campaigns of intimidation at several levels. Pressure was being brought to bear on persons living in occupied Western Sahara, a campaign of defamation of the Frente POLISARIO was in progress, and there were more and more attacks in the Moroccan press on the United Nations Mission for the Referendum in Western Sahara (MINURSO). His organization therefore urged the United Nations to continue the peace process, within the agreed time limits, and to send independent observers as soon as possible to oversee the identification process as well as the referendum itself.

71. Ms. PARKER (International Educational Development) said that viable self-determination claims were a substantial factor in half of the 34 major conflicts currently taking place. The international community's glaring failure to address the problem was undoubtedly due to the political stance of its member States, but it was most foolhardy to attempt to stifle viable claims to self-determination, as was shown by the situations in Sri Lanka, East Timor, the Israel-occupied territories and Turkey and the tinderbox situations in Chechnya, Myanmar, Cyprus and Kosovo.

72. Even worse were the situations where self-determination claims had been accepted by the United Nations years previously, but on which no action had been taken. The situation in Jammu and Kashmir was a prime example: the people of that country had not been accorded the plebiscite promised them in the early 1950s. Similarly, the Moluccas and Acheh, acting under United Nations auspices, had opted in 1950 not to be part of Indonesia, which had then invaded the two territories and sought to annex them. Indonesia's illegal seizure of East Timor had probably been the result of the international community's failure to come to the aid of the Moluccans and the Acheh people. In the case of Tibet, the right of the Tibetan people to self-determination had been recognized by the General Assembly in 1959, yet China still occupied the country.

73. Flexibility, together with a cohesive and unpoliticized will of the Member States of the United Nations, could go a long way to resolving such situations. The Commission, too, should play a much larger role in seeking solutions to wars involving self-determination claims. The first step would be for it to establish a permanent mediation group.

74. Mr. Gallegos Chiribiga (Ecuador), Vice-Chairman, took the Chair.

75. Mr. CHOWDHURY (Bangladesh) said that occupation was a denial of the fundamental rights of the occupied people, and it was, therefore, appropriate that the Commission should continue to deliberate on the human rights violations in the occupied Arab territories in the fiftieth anniversary year of the Universal Declaration of Human Rights. Despite some positive political changes in the occupied territories, including the transfer of certain powers to the Palestinian Authority, the Israeli occupation continued. The initiative which had led to the signing of the Hebron Protocol appeared to have waned, and the international community was still awaiting developments with regard to the final status negotiations on Jerusalem.

76. His delegation urged the Government of Israel to dispel the concern that it was trying to affect the outcome of those negotiations by attempting to change the demographic composition of Jerusalem. It agreed completely with the view expressed by the spokesman for the European Union that there was no alternative to the peace process. However, lasting peace could not be achieved without respect for human rights.

77. The Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories had noted a marked deterioration in the human rights situation in those territories since the beginning of the peace process. The Commission should thus voice its support for the inalienable rights of the Palestinian people, including their right to return to their homeland and to establish an independent State on their national soil with Jerusalem as its capital. It was only when those rights had been achieved that the Commission could reconsider continuation of its agenda item 4.

78. Mr. IDRIS (Sudan) said that agenda item 4 was of extreme importance because of the continuing deterioration of the situation in the occupied Arab territories as reported by the Special Rapporteur and in the mass media. The situation of Palestinian detainees in Israeli prisons and the continued construction of settlements and confiscation of Palestinian homes were matters of great concern. The efforts being made to change the religious and ethnic composition of those territories was also a flagrant violation of human rights.

79. His delegation thus appealed to the Commission and other international human rights organizations to take action to obtain the liberation of detainees, especially women and children, and to prevent the repression of Palestinian demonstrators. It also appealed to the States parties to the Fourth Geneva Convention of 1949 to ensure that Israel observed its provisions.

80. His delegation, which fully supported the right of the Palestinian people to self-determination, recalled Commission resolution 1996/5, which called upon Israel to withdraw from the Palestinian territory occupied since 1967, reiterated the need to ensure a global and just peace in accordance with the relevant United Nations resolutions, and called on the international community to strengthen its role so as to enable the Palestinian people to throw off the yoke of occupation.

81. Ms. RUBIN (United States of America), said that the pursuit of a just, lasting and comprehensive peace in the Middle East had long been a major goal of her Government. The Palestinian Authority had gained control over Gaza and most of the Palestinian population centres in the West Bank and Israel and the Palestinians had agreed to and implemented the Hebron Protocol. All those events, including the peace treaty signed between Israel and Jordan, represented progress.

82. However, 1997 had not been a good year for the peace process. A crisis of confidence had developed, but, suggestions that the peace process had somehow died were wrong, since the parties were still engaged in dialogue. Some hard decisions would soon have to be made, however.

83. Her Government's current efforts to help the Palestinians and Israelis bridge the differences between them had four parts: increased security cooperation and the fight against terror and its infrastructure; further Israel redeployments in the West Bank; a moratorium on unhelpful unilateral steps; and the acceleration of permanent status negotiations on such sensitive issues as Jerusalem, refugees, settlements, security arrangements, borders and relations with other neighbours. The past months had not been easy, but she assured the Commission that her Government would not turn its back on the critically important region and the historic process of change.

84. The Commission's agenda currently contained a singular anomaly: of all the nations in the world, only Israel was assigned its own particular agenda item. That nation was working towards peace with the Palestinians, had completed treaties with Egypt and Jordan and had expressed its willingness to negotiate with Syria and Lebanon. No nation, including Israel, was without fault, but to hold it to a standard far exceeding that applied to any other nation was simply unfair. Similarly, the Special Rapporteur for the occupied territories was the only one with an open-ended mandate and the only one whose mandate presupposed that human rights violations had taken place, in clear violation of any objective standard of fairness.

85. Such a difference in treatment did the Commission no justice, nor did it further the cause of peace in the Middle East. Reform of the Commission's agenda could begin with the elimination of item 4 altogether and the consideration of Israel under item 10, like any other nation. The Special Rapporteur's mandate could be rewritten to conform to the same standards as all others. It was time for the Commission to discuss those issues in an objective, accurate and balanced way. Such an approach would bring about a more productive dialogue on the human rights situation in the occupied territories.

86. The United States believed that the future of the occupied territories should be decided through direct negotiations between Israelis and Palestinians, based on Security Council resolutions 242 (1967) and 338 (1973) and the principles of land for peace, security for all States in the region, including Israel, and the legitimate political rights of the Palestinian people.

87. Mr. LEGWAILA (Botswana) said that his delegation shared the disappointment and frustration concerning the Middle East peace process

expressed by the Special Rapporteur in his report (E/CN.4/1998/17). Making peace between two peoples who, rightly or wrongly, had long regarded each other as mortal enemies was understandably a very difficult and risky enterprise, but it could be done, as demonstrated by the events in South Africa.

88. A start had been made in the Middle East towards peace between Israel and the Palestinian people. To complete that process, however, Israel would need to recognize that there was much in common between its own people and the horrors they had endured in their history, and the Palestinian people and their yearning for self-determination. Botswana recognized the right of Israel to exist in peace and freedom, but that did not supersede the right of the Palestinian people to enjoy peace and freedom in a land they could call their own.

89. A conflagration in the Middle East was inevitable if the right of the Palestinian people to self-determination was denied. A peaceful settlement of the conflict between Israel and the Palestinians was the only insurance against that possibility, from which neither Israel nor Palestine would emerge unscathed. A prolonged stalemate provided a fertile opportunity for the men and women of violence on both sides to make it even more difficult for the people of goodwill on both sides to sow the seeds of peace. The proliferation of illegal settlements in disputed land and in territories whose final status had yet to be negotiated was a clear invitation to violence, and a hindrance to normalization of the situation between Israel and the Palestinian people.

90. Mr. KRYLOV (Russian Federation) said that the peace process in the Middle East region had clearly come to a halt. His Government, as one of the sponsors of that process, had an interest in the fate of the Israeli-Palestinian agreements that had already been reached. Those agreements should be implemented in a spirit of fairness and compromise. Only through the implementation of the Madrid Principles, the Oslo Agreement, Security Council resolutions 242 (1967) and 338 (1973) and the "land for peace formula" could real and lasting peace in the Middle East be achieved.

91. The construction and expansion of Israeli settlements in the occupied Palestinian territories had become a serious impediment to the peace process. His delegation urged that Israeli-Palestinian talks should continue on the difficult question of the construction of settlements as well as on the question of access by all religions to the holy places and on the complex question of the final status of Palestine. The realization of the inalienable rights of the Palestinian people, including the right to self-determination, was not counter to the interests of Israel, but would further those interests by helping to strengthen its security and improve relations with its neighbours.

92. His delegation shared the view of the Special Rapporteur that the economic development of the Palestinian territories was an important prerequisite for political stability and guarantees of security for Israel. It regretted Israel's unwillingness to enter into a constructive dialogue with international mechanisms, including the Special Rapporteur, and to accept the recommendations of such international organs as the Committee against Torture.

93. Terrorism, which was a serious threat to peace in the region, was becoming more intensive. Terrorist activities in the Middle East had one purpose only: to destroy the peace talks. The only answer to the terrorists was to continue the peace process despite their actions, as Yitzak Rabin had done. The peace process must not be held to ransom by extremists. The international community must show restraint and vision in making every effort to restart the talks, and his delegation would support any initiative in that direction.

94. In recent years, historic processes had led to the need to clarify the meaning of self-determination and adapt the concept to the modern world. It was evident that, in contemporary international law, the principle of self-determination did not take precedence over the territorial integrity of States. In that connection, his delegation had repeatedly called attention to the fact that self-determination should not be used as a pretext to undermine the territorial integrity or political unity of a sovereign and independent State. Separatism and extremism posed a threat both to human rights and to international stability and security.

95. The Russian Federation was a multinational country which upheld the principle of the enjoyment of fundamental rights and freedoms. It was convinced that a federal type of government created the conditions for the development of the peoples making up the Federation, while maintaining its integrity and inviolability as a whole. The National Cultural Autonomy Act provided the normative basis for the enjoyment of those rights. In accordance with its provisions, all peoples, whether large or small, living in one place or spread throughout the territory, had the right to national and cultural autonomy. His delegation would return to that topic during the discussion of agenda item 16.

The meeting rose at 1 p.m.